

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

7 * * *

8
9 BANK OF NEW YORK MELLON,

Case No. 2:17-cv-00376-JCM-GWF

10 Plaintiff,

v.

ORDER

11 HOMEOWNER ASSOCIATION SERVICES,
12 INC., *et al.*,

13 Defendants.

14 Presently before the court is the matter of *Bank of New York Mellon v. Homeowner*
15 *Association Services, Inc. et al.*, case number 2:17-cv-00376-JCM-GWF.

16 On February 7, 2017, plaintiff Bank of New York Mellon (“BNYM”) initiated this
17 action, asserting four causes of action: (1) quiet title; (2) breach of NRS 116.1113; (3) wrongful
18 foreclosure; and (4) deceptive trade practices. (ECF No. 1).

19 On March 6, 2017, defendant Starfire Estates VI Owners Association (“Starfire”) filed a
20 motion to dismiss for lack of subject matter jurisdiction. (ECF No. 8). On March 13, 2017,
21 defendant Saticoy Bay LLC Series 2708 Stargate (“Saticoy Bay”) filed a motion to dismiss in
22 light of a parallel state court proceeding. (ECF No. 10). On July 3, 2017, the court granted the
23 motions to dismiss. (ECF No. 19).

24 On August 2, 2017, BNYM appealed to the Ninth Circuit. (ECF No. 22). On April 3,
25 2019, the Ninth Circuit vacated and remanded, ordering the court to commence proceedings
26 consistent with *Bank of America, N.A. v. Arlington West Twilight Homeowners Association*, No.
27 17-15796, 2019 WL 1461317 (9th Cir. April 3, 2019) (“*Arlington*”). (ECF No. 25).

28 The holding in *Arlington* addresses the constitutionality of NRS 116.3116 *et seq.*

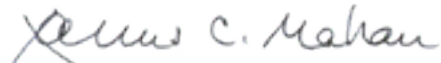
1 (“Chapter 116”) and the standard for valid tender under the statute. *See Arlington*, 2019
2 WL1461317 at *2–3. Because BNYM’s complaint does not contain any allegations with regards
3 to tender and the July 3, 2017, order does not discuss the constitutionality of Chapter 116, the
4 court does not find that *Arlington* alters the court’s holding in any way.

5 Nevertheless, the court will afford the litigants an opportunity to represent their interests
6 before the court refiles its order, re-enters judgement, and closes the case.

7 Accordingly

8 IT IS HEREBY ORDERED that plaintiff shall have fourteen (14) days from the date of
9 this order to file a motion detailing how *Arlington* changes the ultimate disposition in this case.
10 Thereafter, defendants shall have fourteen (14) days to file a response and plaintiff shall have
11 seven (7) days to file a reply.

12 DATED THIS 15th day of April 2019.

13
14 
15 JAMES C. MAHAN
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28